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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,915	02/05/2001	Robert R. Andrews	08261-017001	6193
26161	7590	01/12/2006		
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER TRAN, BINH Q	
			ART UNIT	PAPER NUMBER
			3748	
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/777,915	Applicant(s) ANDREWS ET AL.	
	Examiner BINH Q. TRAN	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9,10 and 72-74 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-2,4-7,9-10,72-74 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to the amendment filed October 20, 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-7, 9-10, and 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart et al. (Hobart) (Patent Number 5,335,242) in view of Brauer (Patent Number 5,951,543).

Regarding claims 1 and 6, Hobart discloses a cardiac laser surgery apparatus and method comprising: a sealed CO2 slab laser (e.g. 10), and a laser delivery system (e.g. See Figs. 1-20); the slab laser (10) including two narrowly spaced electrodes (36, 38) having opposed planar surfaces and a rectangular discharge region defined between the opposed planar surfaces of the two narrowly spaced electrodes (Fig. 2); a controller (e.g. 132, 134, 136) (Fig. 20) to operate the laser to provide pulses of adjustable length shorter than 100ms energy levels of between 8 and 10 Jules per pulse (e.g. See col. 10, lines 15-25) (e.g. See Figs. 14-20; col. 10, lines 40-67; cols. 11-12, lines 1-67; col. 13, lines 1-35). However Hobart fails to disclose that the laser delivery system for delivering laser pulses from said laser to a patient's heart.

Brauer teaches that it is conventional in the art, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart of Hobart, as taught by Brauer for the purpose of delivering laser pulses to the CO2 slab laser device; so as to increase the power and efficiency of the laser slab device during laser surgery of the patient's heart.

Regarding claims 2 and 7, Brauer further discloses that the laser delivery system includes a hand piece for delivering pulses to the outside of a patient's heart to provide openings in the patient's heart for myocardial revascularization (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

Regarding claims 4 and 9, Brauer further discloses that the laser delivery system is synchronized to the heart beat to fire when the heart is electrically insensitive to reduce the chance of arrhythmia (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 34-63).

Regarding claims 5 and 10, Brauer further discloses that the laser starts firing on the R wave and stops before the T wave (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 1-63).

Regarding claim 72, Brauer further discloses that the laser delivery system further comprises an articulated arm to deliver the laser pulses from said laser to said hand piece.

Regarding claim 73, Hobart further discloses a first and second mirrors (e.g. 26, 28, 30, 32) disposed between said opposed planar surfaces of said two narrowly spaced electrodes (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

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Regarding claim 74, Hobart further discloses a first adjustable connector affixed to the first mirror to permit angular adjustment of the first mirror with respect to a first axis and a second adjustable connector affixed to the second mirror to permit angular adjustment of the second mirror with respect to a second axis orthogonal to the first axis (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

Response to Arguments

Applicant's arguments filed October 20, 2005 have been fully considered but they are not completely persuasive. Claims 1-2, 4-7, 9-10, and 72-74 are pending.

Applicant's cooperation in explaining the claims subject matter more specific to overcome the claim rejection is also appreciated.

Applicants' s arguments with respect to claims 1-2, 4-7, 9-10, and 72-74 have been considered but are moot in view of the new ground(s) of rejection as discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT
January 06, 2006



Binh Q. Tran
Patent Examiner
Art Unit 3748